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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,160	03/01/2004	Mitchell B. Oliver	020294	3432
23596 7590 01/07/2010 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER PATEL, DHAIRYA A				
ART UNIT		PAPER NUMBER		
2451				
NOTIFICATION DATE		DELIVERY MODE		
01/07/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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***Advisory Action
Before the Filing of an Appeal Brief***

Application No.

10/791,160

Applicant(s)

OLIVER ET AL.

Examiner

Dhairya A. Patel

Art Unit

2451

– ***THE MAILING DATE of this communication appears on the cover sheet with the correspondence address –***

THE REPLY FILED 04 December 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: NONE

Claim(s) objected to: NONE

Claim(s) rejected: 1-24

Claim(s) withdrawn from consideration: NONE

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
 As per remarks, Applicant stated the following:

A). Applicant states Kiiveri does not teach "downloading through a wireless connection to a computer platform of the computer device and application that does not comply with a predefined security protocol for use at that computer device."

As per remark A, Examiner respectfully disagrees with the applicant because in paragraph 3.10, 31 and 32, Kiiveri teaches having mobile-telecommunication terminals such as PDAs and the Fig. 2 is the computer platform for the PDA or the mobile telecommunication terminals. Examiner would like to point out that the PDA operate through wireless connection as known in the art. Furthermore, in paragraph 3, it clearly states mobile telecommunication terminals such as PDA which means that the PDA is operating through a wireless connections, since the application and the operating system and is downloaded into the secure environment. The downloading i.e. downloading through the mobile telecommunication terminals that means through wireless connection. Furthermore, if the signature check fails (i.e. do not comply with the pre-defined security protocol), the unsecured mode is activated and the verified application is loaded in ASIC RAM (i.e. downloading application that do not comply) located outside the secure environment. In this case, the loading is done on to ASIC RAM of the mobile PDA, which means that since the PDA operate in mobile environment, it is loaded through wireless connection. Therefore Kiiveri teaches the claimed limitations.

B). Applicant states the rationale as to why one skilled in the art would have combined Shenfield's invention with Kiiveri's invention.

As per remark B, Examiner respectfully disagrees with the applicant because in the final rejection mailed on 10/7/2009, Examiner explained it would have been obvious to one of ordinary skill in the art at the time of applicant's invention was made to implement Kiiveri's teaching in Shenfield's teaching to come up with having downloading application that does not comply with security protocol. The motivation for doing so would be so that the testing, debugging and servicing the mobile telecommunication

/Hassan Phillips/
Primary Examiner, Art Unit 2451